IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 406 of 2007

IN

SUIT NO. 1009 OF 1973

Ratan Dinshaw Surveyor .. Appellant

versus

Hemlata Shamji Veera & Ors. .. Respondents

...

Ms.Duraiya S. Retiwala for the appellant.

None for the respondents.

CORAM : R.M.S. KHANDEPARKAR

AND D.G.KARNIK, JJ

DATED : 22nd June 2007.

P.C.:

1. Heard.

2. The appellant challenged order dated 29th March 2007 passed in Suit no.1009 of 1973. By the impugned order, the Court has merely observed that the removal of reference by the court receiver in

exercise of powers under Rule 493 of the Original Side Rules of the High Court cannot be found fault with in the facts and circumstances of the case. It has also been observed that in the absence of application for drawing of the final decree, there was no cause for issuance of the final decree. Plain reading of the impugned order nowhere disclosed any issue or part of the controversy in the matter. Having finally disposed of affecting the variable rights of the parties, on the contrary the impugned order is one of those orders for further progress of the suit. Being so, the impugned order cannot be said to be a judgement within the meaning of the said expression under clause 15 of the Letters Patent and therefore, impugned order is not appealable. Appeal therefore is dismissed.

(R.M.S. KHANDEPARKAR, J)

(D.G. KARNIK, J)